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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,242	06/06/2000	Lloyd Alan Poston	072228.0102	8053

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EXAMINER

ANDERSON, MATTHEW D

ART UNIT	PAPER NUMBER
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2186

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action

Application No.

09/588,242

Applicant(s)

POSTON, LLOYD ALAN

Examiner

Matthew D. Anderson

Art Unit

2186

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: newly amended language would require further search & consideration.

3. ☒ Applicant's reply has overcome the following rejection(s): USC 112 rejections to cl 17-19.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: (see attached...).
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1, 3-38.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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Response to Arguments

1. With respect to claims 1, 21, 33, the Applicant alleges that Golding does not teach the same circuit creating the log entry and queuing the log entry. The abstract of Golding states that periodically, the controller reads the timestamps of the messages in the log and compares the timestamps to a clock in the controller to determine the message having the oldest timestamp. If the oldest message has a timestamp that is less than the controller's clock value by more than a predetermined amount, the controller writes the data segment contained in the message to the storage medium at the specified address in the message. In other words, the controller creates the log entry from the message received from the processor, and queues it in the log before sending to the storage media 21.

2. The amendments to claims 9 and 20 have not been entered, and have not been addressed.

3. With respect to claim 17, the Applicant alleges that Thatte does not disclose writing the log entries having timestamps later than the point in time of the snapshot. Column 17, lines 43-61, discusses a checkpoint archival process. If a disk failure occurs, a new disk can replace the damaged one, and the archived state can be used to initialize the new disk. Only those pages of the last checkpointed state that are dirty with respect to the last archived state need be copied to the archival medium. In other words, the above archived state corresponds to the claimed snapshot, and the checkpoint state is the claimed given time. Therefore, newly modified data (at the checkpoint state) that was not in the archived state is copied to the archival medium.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Anderson whose telephone number is (703) 306-5931. The examiner can normally be reached on Monday-Friday, 2nd Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Kim can be reached on (703) 305-3821. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew D. Anderson
June 30, 2004

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